



MCI Telecommunications
Corporation
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Austin, TX 78701
512 495 6721
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November 4, 1998

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PUBLIC UTILITY COMMISSION
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Mr. Howard Siegel
Ms. Lynne LeMon
Public Utility Commission of Texas
1701 N. Congress
Austin, TX 78701

Re: PUC Docket No. 19075 - Petition of MCI Telecommunications
Corporation for Arbitration of Directory Assistance Listings Issues
Under Federal Telecommunications Act of 1996

Dear Judges Siegel and LeMon,

In accordance with the implementation schedule established in the Arbitration Award issued in the above-numbered and styled docket, MCI Telecommunications Corporation (MCI) and Southwestern Bell Telephone Company (SWBT) submit their revisions to the MCI/SWBT Interconnection Agreement regarding directory assistance listings (DAL). The revisions are memorialized in the separate Appendix DAL enclosed herein, and signature pages are submitted in duplicate counterparts. MCI notes, for your information, that the MCI signature page is an original but that SWBT's signature page is a faxed copy. SWBT's counsel has informed MCI that SWBT will submit an original signature page within the week.

MCI appreciates your attention to this matter. Please call me at 495-6848 if I can provide any additional assistance.

Sincerely,

Patricia Ana Garcia Escobedo

cc: Kelly Murray

APPENDIX DAL

APPENDIX DAL

MUTUAL EXCHANGE AND COMPENSATION AGREEMENT
FOR LOCAL DIRECTORY ASSISTANCE LISTINGS

This Appendix contains the terms and conditions under which SWBT and MCI agree to the mutual exchange of subscriber listing information, as follows:

PREAMBLE

1. SWBT and MCI each own and maintain databases containing the subscriber listing information (name, address and published telephone number, or an indication of "non-published status") of their respective telephone subscribers.
2. SWBT uses the subscriber listing information in its databases to provide directory assistance (DA) service to individuals who call SWBT's DA to obtain such information.
3. Inasmuch as SWBT provides DA service under contract for other Local Exchange Carriers (LECs) and Competitive Local Exchange Carriers, (CLECs), SWBT's databases also contain subscriber listing information for other LEC and MCI end users.
4. MCI wishes to provide DA service to its end users located in the MCI's service area, and therefore, wishes to load its databases with SWBT's databases that currently reside in Houston, Texas and Dallas, Texas, that, when combined, include directory assistance listings of SWBT customers located in Texas, listing of businesses located in other states that obtain a Texas presence, listings of non-Bell customers and listings of certain customers located in states with exchange areas contiguous to Texas. [*Arb. Award, TPUC Docket No. 19075, 8/13/98, Issues 1-3*]
5. In order to maintain the completeness of its DA databases and its DA service, SWBT wishes to receive from MCI subscriber listing information pertaining to MCI's end users residing the State of Texas.
6. SWBT and MCI wish to further delineate the rights and obligations of each Party in this regard in more detail than described at Attachment VIII, Sections 7.5.1 and 7.5.2.
7. Now therefore, in consideration of these premises, SWBT and MCI agree to exchange with each other certain subscriber listing information contained in each Party's database, under the following terms and conditions which shall supersede and replace those provisions at Attachment VIII, Sections 7.5.1 and 7.5.2:

I. SERVICE PROVIDED

- A. SWBT and MCIIm shall exchange with each other the subscriber listing information of their end users for the databases described in above. With respect to SWBT listings, SWBT will be referred to as "Provider" and MCIIm will be referred to as "Recipient." With respect to MCIIm listings, MCIIm will be referred to as "Provider" and SWBT will be referred to as "Recipient." In the case of end users who have non-published listings, Provider shall provide to Recipient the end user's name and address and an indicator that shows the nonpublished status of the listing. Provider shall not provide the non-published end user's telephone number except for the NPA/NXX.
- B. Should MCIIm's end user calling DA request a nonpublished listing and indicate that an emergency situation exists, SWBT shall attempt to contact the nonpublished subscriber and relay the calling party's name and number to this customer. This service will be provided at the rate of \$1.87 per call. At least two attempts shall be made to deliver this information to the nonpublished customer. At a mutually agreed upon time, MCIIm will provide this service to SWBT.
- C. Provider shall provide to Recipient published subscriber listing information contained in Provider's database pertaining to subscribers of all LECs and CLECs that have granted Provider written authorization to release such subscriber listing information to the Recipient, except for those twelve carriers that have refused SWBT permission to disclose their subscriber listing information until either (1) the date their contractual prohibition against releasing the listings is withdrawn or (2) November 1, 1998, whichever is sooner. [*Arb. Award, TPUC Docket No. 19075, 8/13/98, Issues 4-6*] Provider's obligation shall not arise until approval, interim and/or permanent, of this Appendix by the TPUC.
- D. Provider and Recipient shall exchange subscriber listing information, in a readily accessible tape or electronic format, access to any and all directory assistance databases with nightly updates, that are used by SWBT in providing directory assistance services to end users. [*Arb. Award, TPUC Docket No. 19075, 8/13/98, Issue 1-3*]. Recipient shall provide Provider a minimum of sixty (60) days notice prior to the date when the initial exchange of listing information is to occur, following the effective date of this Appendix. The mode of transmission for the initial load of listings will be provided by round reel magnetic tape. The updates may be provided either by the round reel magnetic tape, by Network Data Mover ("NDM"), or by Electronic File Transfer ("EDM"), as specified by the Recipient. Updates may also be provided manually where electronic flow-through is not available. Provider shall provide subscriber listing information to Recipient in the same format Provider provides to all Recipients, but reserves the right to change this fields in this format with thirty (30) days written notice to DAL recipients and

the right to change the format with ninety (90) days written notice to DAL recipients.

II. USE OF SUBSCRIBER LISTING INFORMATION

- A. Recipient may use the subscriber listing information exchanged and provided pursuant to this Appendix for the sole purpose of providing directory assistance telecommunications services to its retail customers. The term "directory assistance telecommunications services" includes, but is not limited to, voice, electronic and reverse directory assistance telecommunications services. [*Stip. and Arb. Award, TPUC Docket No. 19075, 8/13/98, Issues 12-13*]
- B. SWBT and MCIIm shall provide to each other all 7 and/or 10 digit listed numbers of all police, fire, ambulance, poison control, and any other emergency service providers. SWBT shall also provide such listed numbers for all independent carriers that have given their consent for SWBT to release their directory listing information. For those twelve carriers that have refused SWBT permission to disclose their subscriber listing information, SWBT shall not provide such listed numbers until either (1) the date their contractual prohibition against releasing the listings is withdrawn or (2) November 1, 1998, whichever is sooner. [*Arb. Award, TPUC Docket No. 19075, 8/13/98, Issues 7-9*]
- C. Upon termination of the Agreement, Recipient shall cease using, for any purpose whatsoever, the subscriber listing information provided hereunder by Provider, except as provided in Section 20.3 of the Interconnection Agreement.

III. TERM OF CONTRACT

This Appendix shall continue in force until the termination of the Interconnection Agreement to which this Appendix is attached.

IV. COMPENSATION

Recipient shall compensate Provider for the reciprocal exchange of subscriber listing information in accordance with the following table:

| | |
|--|----------|
| Non-recurring set-up charge, general * | \$11,500 |
| Non-recurring set-up charge, MCI | \$ 4,800 |
| Price per listing, initial load | \$.0011 |
| Price per listing update, electronic | \$.0014 |
| Per per listing update, magnetic tape | \$.0019 |

*This set-up charge applies to customers who opt to request access to directory assistance listings in bulk format pursuant to the Arbitration Award. [Arb. Award, TPUC Docket No. 19075, 8/13/98, Issues 10-11]

V. **RESERVATION OF RIGHTS**

The Parties agree that neither the terms and condition of this Appendix nor the actions of the Parties in performing under this Appendix shall constitute a waiver of any right to pursue further consideration of or to appeal the decisions of the Arbitrators in Docket No. 19075.

This DAL Appendix may be signed in duplicate original counterparts.

**MCImetro ACCESS TRANSMISSION
SERVICES, INC.**

By: 

Name: MICHAEL A. BEACH

Title: VICE PRESIDENT

Date: 11/2/98

**SOUTHWESTERN BELL TELEPHONE
COMPANY**

By: _____

Name: _____

Title: _____

By: _____

Effective November 4, 1998

APPENDIX DAL
SWBT/MCIm
Page 5 of 5

in bulk format pursuant to the Arbitration Award. [Arb. Award, TPUC Docket No. 19075, 8/13/98, Issues 10-11]

V. **RESERVATION OF RIGHTS**

The Parties agree that neither the terms and condition of this Appendix nor the actions of the Parties in performing under this Appendix shall constitute a waiver of any right to pursue further consideration of or to appeal the decisions of the Arbitrators in Docket No. 19075.

This DAL Appendix may be signed in duplicate original counterparts.

**MCImetro ACCESS TRANSMISSION
SERVICES, INC.**

**SOUTHWESTERN BELL TELEPHONE
COMPANY**

By: _____

By: Sandy Kinney

Name: _____

Name: Sandy Kinney

Title: _____

Title: President - Industry Markets

Date: _____

Date: 11-4-98

Kelly M. Murray
Senior Counsel

Southwestern Bell Telephone
1616 Guadalupe, Room 800
Austin, Texas 78701
Phone 512 870-5707
Fax 512 870-3420



November 25, 1998

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Mr. Howard Siegel
Chief Attorney
Office of Policy Development
1701 N. Congress Avenue
Austin, Texas 78701

Lynn LeMon
Office of Regulatory Affairs
Public Utility Commission of Texas
1701 N. Congress Avenue
Austin, Texas 78701

RE: Docket No. 19075

Dear Judge Siegel and Ms. LeMon:

As discussed yesterday in our conference call, attached is an Amendment to the DAL Appendix filed by MCI on November 4, 1998. The Amendment is signed by both parties in counterparts.

With regard to SWBT's Comments on Revisions to the SWBT/MCI Interconnection Agreement Regarding Directory Assistance Listings filed on November 16, 1998, this letter will confirm that SWBT has no objection to the Commission's approval of the attached Amendment.

If you have any questions, please don't hesitate to give me a call.

Very truly yours,

A handwritten signature in cursive script that reads "Kelly M. Murray".

Kelly M. Murray
Senior Counsel

Attachment

cc: All parties of record

AMENDMENT TO APPENDIX DAL

AMENDMENT TO APPENDIX DAL

WHEREAS, on November, 4, 1998, SWBT and MCI_m entered into their APPENDIX DAL to be appended to their Texas Interconnection Agreement as a mutual exchange and compensation agreement for local directory assistance listings; and

WHEREAS, the Parties intended to incorporate into that APPENDIX DAL all the terms and conditions of the Arbitration Award dated August 13, 1998, in Docket No. 19075 pending before the Public Utility Commission of Texas; and

WHEREAS, the Parties inadvertently omitted one provision of that Arbitration Award;

NOW, THEREFORE, the Parties agree, as follows:

1. Section IV. Compensation of the APPENDIX DAL shall be superseded and replaced by the following language which language adds a new subsection B:

IV. COMPENSATION

- A. Recipient shall compensate Provider for the reciprocal exchange of subscriber listing information in accordance with the following table:

| | |
|---|----------|
| Non-recurring set-up charge, general * | \$11,500 |
| Non-recurring set-up charge, MCI _m | \$ 4,800 |
| Price per listing, initial load | \$.0011 |
| Price per listing update, electronic | \$.0014 |
| Price per listing update, magnetic tape | \$.0019 |

*This set-up charge applies to customers who opt to request access to directory assistance listings in bulk format pursuant to the Arbitration Award. [*Arb. Award, TPUC Docket No. 19075, 8/13/98, Issues 10-11*]


- B. The non-recurring set-up costs of \$4800 charged to MCI_m shall be shared among the first four carriers requesting DAL listings in bulk format. If other carriers request access to SWBT's DAL database in bulk, MCI_m will receive a partial bill credit of the non-recurring charge billed to MCI_m and the other carrier(s) will share these costs. SWBT's costs will be fully recovered.

2. That all other terms and conditions contained in the APPENDIX DAL continue in force and effect as set forth therein.

This Amendment to the APPENDIX DAL may be signed in duplicate counterparts.

MCImetro ACCESS TRANSMISSION
SERVICES, INC.

SOUTHWESTERN BELL TELEPHONE
COMPANY

By: 

By: _____

Name: MICHAEL A. BEACH

Name: _____

Title: VICE PRESIDENT

Title: _____

Date: 11/24/98

By: _____

2. That all other terms and conditions contained in the APPENDIX DAL continue in force and effect as set forth therein.

This Amendment to the APPENDIX DAL may be signed in duplicate counterparts.

**MCImetro ACCESS TRANSMISSION
SERVICES, INC.**

By: _____

Name: _____

Title: _____

Date: _____

**SOUTHWESTERN BELL TELEPHONE
COMPANY**

By: David D. Kerr
(f) Sandy Kinney

Name: David D. Kerr (f) Sandy Kinney

Title: President-Industry Markets

Date: November 23, 1998

DOCKET NO. 19075

| | | |
|-------------------------------|---|---------------------------|
| PETITION OF MCI | § | PUBLIC UTILITY COMMISSION |
| TELECOMMUNICATIONS | § | |
| CORPORATION FOR ARBITRATION | § | OF TEXAS |
| OF DIRECTORY ASSISTANCE | § | |
| LISTINGS ISSUES UNDER FEDERAL | § | |
| TELECOMMUNICATIONS ACT OF | § | |
| 1996 | | |

ORDER APPROVING AMENDMENTS TO INTERCONNECTION
AGREEMENT

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I. Procedural Background

A. General Background

The Federal Telecommunications Act of 1996¹ (FTA) requires that when an incumbent local exchange carrier (ILEC) and a new local service provider (LSP) are unable to negotiate the terms and conditions of interconnection agreements, either of the negotiating parties "may petition a State commission to arbitrate any open issues." FTA § 251(b)(1). The Public Utility Commission of Texas (the Commission) is the state commission responsible for arbitrating disputes under FTA.² The Commission anticipated it would be called upon to resolve disputes under FTA, and promulgated a dispute resolution rule that established procedures for conducting arbitration proceedings.³

B. Procedural Background in this Docket

On March 18, 1998, MCI Telecommunications Corporation and MCI Access Transmission Services, Inc. (collectively MCI) filed a petition for compulsory arbitration pursuant to the FTA. The petition concerned MCI's request for directory assistance

¹ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, codified at 47 U.S.C. §§ 151 *et seq.* Hereinafter, all citations to FTA will be to the 1996 Act as codified in the United States Code.

² The Commission has the authority to conduct the FTA arbitrations pursuant to § 252 of FTA and §§ 1.101, 3.051, 3.451, 3.458, and 3.460 of the Public Utility Regulatory Act of 1995, TEX. CIV. STAT. ANN., Article 1446c-0 (Vernon 1997) (PURA95).

³ P.U.C. PROC. R. §§ 22.301 - 22.310 (establishes procedures for mediation, arbitration, and approval of interconnection agreements under FTA).

listings in bulk format at cost-based, total element long run incremental cost (TELRIC), rates.

The arbitration proceedings were conducted in accord with P.U.C. SUBST. Rs. 22.301 through 22.310 and generally accepted arbitration rules. The procedures applied in those proceedings allow all parties a reasonable opportunity to present their respective positions. The scope of the issues addressed in those arbitration proceedings included issues set out in the decision point list.

Pursuant to its dispute resolution rule, the Commission solicited comments on the Proposed Amendments from interested parties. The Commission received comments from MCI and SWBT but did not receive any comments from nonparties.

The Commission has reviewed the Arbitration Award, the Proposed Amendments, and all other pleadings submitted concerning the Proposed Amendments. Pursuant to FTA § 252(e), the Commission now issues this Order Approving Amendments To Interconnection Agreement. The Commission makes no distinction in its review of the Amendments, whether negotiated or arbitrated, pursuant to the standards in FTA § 252(e)(2) for arbitrated agreements.

II. Discussion Relating to MCI's Disputed Issue

The Proposed Amendments reflect the Arbitrators decision that directory assistance listings provided in bulk format should be available at TELRIC-based rates only when MCI provides directory assistance telecommunications services to MCI's local exchange retail customers. (Award at 15) The Arbitrators reasoned that the availability of directory listings in bulk format at TELRIC-based rates is to allow a competitor to compete with the incumbent local exchange carrier in the provision of local telecommunications services to local retail customers. Moreover, the Arbitrators raised a concern that if TELRIC-based rates applied when MCI provides directory assistance telecommunications services to customers other than its retail customers, MCI would have an unfair competitive advantage by being enabled to acquire directory listing information at prices far less than those charged to directory publishers and other non-telecommunications carriers. That concern was based in part on the fact that directory listings obtained in bulk format, unlike a loop or a switch, directory assistance listings obtained in bulk format can be duplicated and resold by a competitive local exchange carrier (CLEC) if the Commission does not impose a use restriction.

The Commission generally agrees with the restriction developed by the Arbitrators. Although the Proposed Amendment does not require redrafting, it should be clarified that: (1) use of the term "MCI's local retail customers" relates to the local service provider of the telephone being used, not the individual requesting directory

assistance; and (2) the Commission, while recognizing that this decision provides a proper parity balance of the interests of SWBT and MCI, is aware that SWBT has an ongoing tariff proceeding, Docket No. 19461, that could shift this balance. Once a decision is made in that proceeding, MCI may file a post-interconnection dispute if adjustments to its interconnection agreement are necessary based on that decision.

III. Commission Decision

1. The Commission's review of the Proposed Amendments is required by FTA § 252(e). Subsection 252(e)(1) provides that any interconnection agreement "adopted by negotiation or arbitration shall be submitted for approval to the State commission. A State commission to which an agreement is submitted shall approve or reject the agreement, with written findings as to any deficiencies."

2. In reaching its decision, the Commission has reviewed the Arbitration Award, the Proposed Amendments, and pleadings and comments filed by MCI and SWBT.

3. FTA § 252(e)(2) provides that a State commission may only reject a proposed interconnection agreement in the circumstances set forth in that subsection. An agreement "adopted by arbitration" may only be rejected if the Commission:

finds that the agreement does not meet the requirements of [FTA] section 251, including the regulations prescribed by the [Federal Communications] Commission pursuant to section 251 or the standards set forth in subsection (d) of this section.

4. In the Arbitration Award, the Arbitrators, found that the award reflects "a resolution of the disputed issues presented by the parties for arbitration," and that "their resolution of the issues complies with the standards set in FTA § 252(c), the relevant provisions of PURA, and the Commission's dispute resolution rules."⁴

5. The Commission finds that provisions of the Proposed Amendments, all of which comply with the Arbitration Award, shall be approved. The standards of FTA § 252(c) that guided the Arbitrators in resolving disputes in arbitration are nearly identical to those in § 252(e)(2)(B) for determining approval of arbitrated agreements, i.e., the agreement must meet the requirements of FTA § 251, including FCC regulations implementing it, and must establish rates in accordance with FTA § 252(d) pricing standards. Therefore,

⁴ Arbitration Award, at 17.

arbitrated provisions that comply with the Arbitration Award will also meet the standards of FTA § 252(c).

6. All other requests for general or specific relief, if not expressly granted herein, are denied for want of merit.

SIGNED AT AUSTIN, TEXAS on the 1st day of December, 1998.

PUBLIC UTILITY COMMISSION OF TEXAS



PAT WOOD, III, CHAIRMAN



JUDY WALSH, COMMISSIONER

1

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
New York on March 18, 1998

COMMISSIONERS PRESENT:

John F. O'Mara, Chairman
Maureen O. Helmer
Thomas J. Dunleavy
James D. Bennett

- CASE 94-C-0095 - Proceeding on Motion of the Commission to
Examine Issues Related to the Continuing
Provision of Universal Service and to Develop a
Regulatory Framework for the Transition to
Competition in the Local Exchange Market.
- CASE 95-C-0657 - Joint Complaint of AT&T Communications of New
York, Inc., MCI Telecommunications Corporation,
WorldCom Inc. d/b/a LDCS WorldCom and the Empire
Association of Long Distance Telephone
Companies, Inc., Against New York Telephone
Company Concerning Wholesale Provisioning of
Local Exchange Service by New York Telephone
Company and Sections of New York Telephone's
Tariff No. 300.
- CASE 91-C-1174 - Proceeding on Motion of the Commission Regarding
Comparably Efficient Interconnection
Arrangements for Reconsideration and Business
Links.
- CASE 96-C-0036 - Complaint of AT&T Communications of New York,
Inc. Against New York Telephone Company
Concerning AT&T's Request for collocated "cages"
to be provided by New York Telephone Pursuant to
its Optical Transport Interconnection Service II
("OTIS-II") Tariff.

ORDER REGARDING DIRECTORY DATABASE ISSUES

(Issued and Effective July 22, 1998)

BY THE COMMISSION:

SUMMARY AND BACKGROUND

This order is an outgrowth of the Competition II
proceeding. Listing of customers and their telephone numbers in

CASES 94-C-0095, 95-C-0657, 91-C-1174, 96-C-0036

directories and providing directory assistance information are integral parts of telephone service. Consistent with the Public Service Law, the overall goal of regulating directory databases is to enhance telephone service and to ensure that it is provided at just and reasonable rates.

Telephone companies that maintain databases of customer information currently provide access to their databases to customers and other telephone service providers by contract. This order extends access to other entities and refines the means by which access is provided.

Local exchange companies (LECs) will be required to provide access to their directory databases to companies that request access for the purpose of publishing a directory or providing directory assistance services. LECs will be compensated for the costs of providing the access, as determined in our Networks Elements Proceeding. Each LEC is to provide access to its database on the same terms as it provides access to its own directory publisher or DA provider. Access should be provided in paper or electronic format as worked out between the parties. Treatment of and liability for directory errors will be governed by tariff provisions.

DISCUSSION

Access to Databases

A threshold issue concerning a telephone company's directory database is what entities should be permitted access to it. Commenting LECs favor limiting access to their directory assistance databases to competing telephone service providers only. Independent providers, such as INFONXX, argue that access should be granted to any entity that provides a bona-fide telephone DA service. Parties agree that the incumbent LEC, which currently administers the DL and DA databases, should continue to do so.

Participants in the telecommunications industry must have fair access to listings for directories and DA. Such access is an integral part of and vital to the efficient use of

CASES 94-C-0095, 95-C-0657, 91-C-1174, 96-C-0036

telecommunications services, enabling carriers to provide and subscribers to have easy access to information about other subscribers. The FCC rules include white pages listings in network elements.⁴

Section 251(b) (3) of the Telecommunications Act of 1996 (the Act) requires LECs to permit all competing providers of telephone exchange service and toll service, non-discriminatory access to: telephone numbers, operator services, directory assistance (DA), and directory listings (DL), with no unreasonable dialing delays.

Section 271(c) (2) (B) of the Act requires Bell Operating Companies, that seek to offer interLATA service, to provide non-discriminatory access to: network elements, directory assistance service to allow the other carrier's customers to obtain telephone numbers, and white pages directory listings for customers of the other carrier's telephone exchange service.

In order to promote adequate telephone service at just and reasonable rates, competition in the provision of directories and directory assistance should be encouraged. Therefore, telephone corporations will be required to provide access to their directory database to competing providers of telephone exchange service and also to other entities that request the information in order to publish a directory in any format or to provide directory assistance service. Providing such access will benefit telephone customers by giving them more options for directory assistance service and choice of directories containing varied information.

Requesting entities shall be provided with a copy of the complete database, without unpublished listings, as provided in PSL section 91(5). Updates of the information shall be provided as often as the LEC updates its own databases. Services, such as NYT's Directory Assistance Database Service (DADA), which allows access on a single inquiry basis only, do not meet these access requirements.

CASES 94-C-0095, 95-C-0637, 91-C-1174, 96-C-0036

Terms and Costs of Access to Databases

1. Terms

A second directory database issue to be considered is on what terms and conditions access to the database should be provided, including what information should be provided, the format of the information and how frequently it should be updated. Commenters agree that data should be made available in hard copy and electronic form, such as: electronic lead, magnetic tape, paper, CD Rom and diskette. If the recipient of data requests customized data beyond these formats, the recipient may be required to pay extra for the customization, as negotiated between the provider and recipient.

ATT notes that an industry wide national standard is being developed for directory listings. If such a standard is adopted by incumbent providers, problems related to formatting should diminish.

Directory listing information that must be provided shall conform to the definition of subscriber list information in Section 222(2)(3) of the Act:

"any information (A) identifying the listed names of subscribers of a carrier and such subscribers' telephone numbers, addresses or primary advertising classifications (as such classifications are assigned at the time of the establishment of such service), or any combination of such listed names, numbers, addresses, or classifications; and (B) that the carrier or an affiliate has published, caused to be published, or accepted for publication in any directory format."

The completeness and timeliness of the data, as well as frequency of updates being provided, should be equivalent to that which the incumbent provides to its own publisher and DA provider. If any dispute arises, a party may petition the Commission for a resolution.

CASES 94-C-0095, 95-C-0657, 91-C-1174, 96-C-0036

2. Cost of Access to Databases

Also at issue is what a company should charge for access to its database. ATT and Sprint argue that directory database information should be provided for the same price and under the same terms and conditions as it is provided to the incumbents. Citizens, NYT and RTC assert that they should not be required to supply the information at all.

Offering directory database information on an equal basis to all telephone service providers and other companies, to be used for providing directory assistance or publishing a directory, will promote competition and help to level the playing field for producing directories and providing DA, thereby promoting better service at just and reasonable rates. When directory database information is sold, all companies that contribute information to the database should be compensated in proportion to their listing contribution.

A tariffed subscriber list information service should specify the rates, charges, rules and regulations related to providing directory information. This service should provide an extract of the white pages listing information that is currently on file, including the listed name, address and telephone number of a subscriber. Unlisted and non-published listings should not be included. This service should be available solely for the purpose of providing directory and DA type services. The rates for the service should be cost based and non-discriminatory.

NYT currently offers listings to competing directory publishers on a contractual basis and suggests that prices for its listings are market based. However, according to economic theory, the more competitive the listings market, the more listings prices should resemble their underlying incremental costs. A comparison of rates charged,² for the provision of listings by major LECs to alternative directory publishers, show too much of a spread in rates to suggest that these are cost

² Summary of Listing Policies at Major Telcos, 1994 vs. 1991, Gamma Information Inc., Wilton, CT, provided by NYT.

CASES 94-C-0095, 95-C-0657, 91-C-1174, 96-C-0036

based listings prices. The incremental costs of providing listings should not vary greatly from region to region and state to state. The fact that prices do vary suggests that certain states may have prices that are out of line with those that would occur in a competitive market. NYT's prices are clearly not at the lower end of the range. Unless the listing prices in other states are being subsidized, it is reasonable to conclude that NYT's prices are significantly in excess of costs. Under the terms established in the Directory License Agreement, whatever NYT charges its affiliate, NYNEX Information Resources Company (NIAC) for directory listings flows back to NYT, less NIAC's return and expenses. Thus if NYT's charges for listings to third parties are far above cost, competitors are disadvantaged.

What is determined appropriate for NYT should apply to the other LECs as well. Competitors do not have the same access to listings as the LECs. Competitors characterize the rates charged as unreasonable, discriminatory, arbitrary, excessive and anti-competitive.

Phase 3 of the Network Elements Proceeding will handle similar issues, including unbundled network elements not yet considered. Pricing of directory database listings is referred to the Network Elements Proceeding in this Case. NYT and RTC are expected to file cost data in the Phase 3 proceeding. All incumbent LECs are directed to file tariffs consistent with the decision on pricing issues in the Network Elements Proceeding, at the conclusion of the phase of that proceeding that decides prices for directory database listings, or provide cost data justification to support a different rate.

Extended Area Service (EAS) and Expanded Listings

Extended area service is an expansion of the geographic area that is considered a customer's local calling area. Customers are able to make local (non-toll) calls within these expanded areas, which may overlap LEC boundaries. Small incumbent LECs raised the issue of how companies should coordinate directory listings for EAS.

CASES 94-C-0095, 95-C-0657, 91-C-1174, 96-C-0036

LECs should provide each other with EAS listings. The terms and cost conditions, mentioned previously, apply to EAS listings as well. If it is feasible to include the appropriate EAS listing information in a subscriber's home directory it should be done. If, however, the home directory would become too large, LECs should consider providing additional directories with this EAS information to their subscribers, at no charge. The incumbents will be adequately compensated through the additional value of their directories, which is reflected in directory advertising revenues collected.

Expanded listings may include cellular, personal communications services (PCS), pagers and messagers. No provider currently seeks inclusion of these services in directories. Commenters did not oppose including listings for these services in directories on a voluntary basis with customer consent. Addition of any of these numbers to listings is left to negotiation between service providers and the directory provider.

Privacy

The Commission's Privacy Principles¹¹ apply to any telephone services offered by companies regulated by the Commission. They limit use of subscriber information generated by a subscriber's use of a telecommunications service. The principles apply to the use of directory database information by regulated companies.

As more carriers enter the market, there will likely be more opportunities for abuse that could compromise customer privacy. Customers' awareness of their privacy rights is a cornerstone to ensuring that these rights are not violated. Customers should receive periodic notice of their privacy

¹¹ Case 96-C-0075, Statement of Policy on Privacy in Telecommunications (Issued and Effective: March 22, 1991) and Modification and Clarification of Policy on Privacy in Telecommunications (Issued and Effective: September 20,

CASES 94-C-0095, 95-C-0657, 91-C-1174, 96-C-0036

protections from their carrier as well as information about where to go with complaints or inquiries.

Classification of Directory Listing and Directory Assistance

Another issue to be considered is whether information in directory databases is Customer Proprietary Network Information (CPNI) or subscriber list information. Federal law restricts access to information and data classified as CPNI.

Section 222(f)(1) of the Act defines CPNI as:

"(A) information that relates to the quantity, technical configuration, type, destination, and amount of use of telecommunications service subscribed to by any customers of a telecommunications carrier, and that is made available to the carrier by the customer solely by virtue of the carrier-customer relationship; and

(B) information contained in the bills pertaining to telephone exchange services or telephone toll service received by a customer of a carrier, except that such term does not include subscriber list information."

Subscriber list information is the name, number, address or primary advertising classification that the carrier or an affiliate has published, caused to be published or accepted for publication in any directory format (Section 222 (f)(3) of the Act). It must be provided to any person on request for the purpose of publishing directories in any format.

RTC, ATT, INFONIX, NWT, and Citizens agree that information in directory listings and DA databases is not CPNI but rather is subscriber list information.

Sprint disagrees and states that CPNI includes: identification of the entity providing service, the type of service, name, address, billing address, phone number, type of order, due dates and information concerning directories, such as delivery address and number of books requested. Sprint fails to distinguish the items on its list that are not in directory

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listings and DA databases. Nor does it recognize the exclusion of subscriber list information from the CPNI definition.

MLM/White emphasizes that even if directory listings and DA information are CPNI, it is entitled to receive the information for directory publishing purposes. NYSTA is unsure about the applicability of CPNI law protections to directory listings and DA information.

Information in directory listings and DA databases at the present time is properly classified as subscriber list information and is, therefore, exempt from the definition of CPNI and CPNI disclosure limitations. Directory database information, then, may be disclosed consistent with this order.

Directory Errors

Errors in directories and databases is another issue of concern. Traditionally, a telephone company is not liable for directory errors but will put a message on the line providing a corrected number and revise the next published directory. NYT asserts that its tariffs and Commission rules are the appropriate standard for end-user rights and remedies regarding directory errors. NYSTA, Citizens, RTC, and Sprint agree that contract and tariff language should address the limits of liability and customer remedies.

With customer choice available, those entities that fail to provide accurate information or make quick reparations for errors will lose customers. When customers have errors to report, they should be able to do so easily. Lines of responsibility should be clearly delineated so individuals know where to report errors.

While errors are inevitable given the volume of data and numbers of transactions that take place, the negative impact of errors on consumers will be lessened if carriers have mechanisms that correct errors quickly. Procedures for ensuring accuracy and liability for errors should be addressed in tariff and contract language.

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The Commission orders:

1. Within 30 days of the date of this order, each local exchange provider shall file tariff amendments consistent with the terms and conditions of this order. The tariff amendments shall not take effect on a permanent basis until approved by the Commission, but may be put into effect on a temporary basis on one day's notice, subject to refund if found not to be in compliance with this order.^{1/}
2. The requirements of newspaper publication pursuant to Section 92(2) of the Public Service Law are waived for the amendments directed in ordering clause 1 above.
3. Each local exchange provider is directed to provide access to its directory database to any entity that requests it for the purpose of publishing a directory or providing directory assistance service.
4. Each local exchange provider is directed to make directory data available in hard copy and electronic format.
5. Each local exchange provider is directed to provide complete and timely directory data equivalent to that which it provides to its own publisher and DA provider.
6. Each local exchange provider is directed to provide access to its database at a price that is cost based and nondiscriminatory. Pricing issues are referred to Phase 3 of the Network Elements Proceeding in Cases 94-C-0095, 95-C-0657, / 91-C-1174 and 96-C-0036.
7. These proceedings are continued.

By the Commission,

(SIGNED)

JOHN C. CRARY
Secretary

^{1/} The procedures specified in section 351(f) of the Act apply to any bona fide requests for database listings presented to small local exchange carriers.

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APPENDIX A

Initial comments were submitted by: AT&T Communications of New York, Inc. and Cellular Telephone Company d/b/a AT&T Wireless Services (ATT); Citizens Telecommunications Company of New York, Inc. (Citizens); INFONOX, Inc. (INFONOX); MCI Telecommunications Corporation and MCI Metro Access Transmission Services, Inc. (MCI); Multi-Local Media Corporation and White Directory Publishers, Inc. (MLM/White); New York Telephone Company (NYT); The New York State Telephone Association, Inc. (NYSTA); Rochester Telephone Corp. (RTC); and Sprint Communications Company L.P. (Sprint).

Reply comments were submitted by: AT&T Communications of New York, Inc. and Cellular Telephone Company d/b/a AT&T Wireless Services (ATT); INFONOX, Inc. (INFONOX); MCI Telecommunications Corporation and MCI Metro Access Transmission Services, Inc. (MCI); Multi-Local Media Corporation and White Directory Publishers, Inc. (MLM/White); the New York Telephone Company (NYT); and Sprint Communications Company L.P. (Sprint).